

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: DIGITEK PRODUCT LIABILITY) MDL NO. 1968
LITIGATION)

THIS DOCUMENT RELATES ONLY TO:)

Kevin Clark and Willie Mae)
Wilburn, Individually and on)
behalf of all others similarly)
situated,)
Plaintiffs,)

vs.)

ACTAVIS GROUP; hf, et al.,)
Defendants.)

MDL NO. 2:08-1017

Deposition of [REDACTED] aken before

NADINE J. WATTS, CSR, RPR, and Notary Public, pursuant
to the Federal Rules of Civil Procedure for the United
States District Courts pertaining to the taking of
depositions, at Suite 5500, 233 South Wacker Drive, in
the City of Chicago, Cook County, Illinois, at 9:25
o'clock a.m. on the 6th day of August, A.D., 2009.

1 There were present at the taking of this
2 deposition the following counsel:

3 MALKINSON & HALPERN, PC by
4 MR. JOHN R. MALKINSON
5 223 West Jackson Boulevard
6 Suite 1010
7 Chicago, Illinois 60606
8 (312) 427-9600

9 on behalf of the Plaintiffs;

10 TUCKER, ELLIS & WEST, LLP by
11 MR. JOHN A. SIMON
12 1150 Huntington Building
13 925 Euclid Avenue
14 Cleveland, Ohio 44115
15 (216) 696-2354

16 on behalf of Defendant Actavis Totowa LLC;

17 SHOOK, HARDY & BACON, LLP by
18 MS. SARAH E. WEST
19 2555 Grand Boulevard
20 Kansas City, Missouri 64108
21 (816) 474-6550

22 on behalf of Defendants Mylan
23 Pharmaceuticals, Inc., Mylan Bertek
24 Pharmaceuticals, Inc. and UDL
25 Laboratories, Inc.

DEPOSITION OF [REDACTED]

TAKEN AUGUST 6, 2009

EXAMINATION BY

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Mr. John A. Simon

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Ms. Sarah E. West

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Mr. John R. Malkinson

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EXHIBITS

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Digitex Plaintiff Fact Sheet

1 Q And what did he or she tell you about Digitek?

2 A Just told me they had recalled Digitek and don't
3 take any more and just bring -- bring them in to the
4 pharmacy.

5 Q So what did you do after you received that phone
6 call from the pharmacy?

7 A Well, I just didn't take any more, and that was
8 like Sunday evening. Monday I went to take the pills to
9 them.

10 Q Did you take all of your pills that you had to
11 the pharmacy that next day?

12 A No, not all of them.

13 Q How many did you take to the pharmacy?

14 A Four or -- four or six of them I think.

15 Q And why did you decide to bring four or six of
16 them to the pharmacy?

17 A I didn't want to get rid of all of them because
18 I didn't know in the future when I might need them.

19 Q What happened when you brought the pills or
20 tablets to the pharmacy? Tell me what you did.

21 A She had taken them and she -- I had the bottle
22 that I had, and she gave me some more, or another name I
23 think by another company, and she gave me some to take,
24 not a whole pill, a half a pill, and to take until I saw
25 my doctor.

1 A Yes.

2 Q Tell me about that.

3 A The pharmacy told me to take a half a tablet.

4 MR. MALKINSON: They gave her .25s. They didn't
5 have .125s.

6 MR. SIMON: Q Were the tablets you received from
7 the pharmacy --

8 MR. MALKINSON: We've got half of one, just so you
9 know, so you can look at it.

10 MR. SIMON: Q Were the tablets you received from
11 the pharmacy broken in half already or did you have to
12 break them in half yourself?

13 A They broke them already.

14 Q How long was it -- Strike that.

15 After the pharmacy called you did you contact
16 your doctor?

17 A No. I had an appointment coming up very soon
18 and I just waited until my appointment.

19 Q Do you recall when your appointment was
20 scheduled for, how long after the call from the
21 pharmacy?

22 A I'd say about six days.

23 Q When did you first consider the possibility of
24 becoming involved in this lawsuit?

25 MR. MALKINSON: I'd just object to the form of the

1 Q What is your understanding of this lawsuit?

2 A Well, myself, I'm bringing the lawsuit by myself
3 and other people that had taken the Digitek, and we like
4 are -- financial-wise, we were taking the Digitek, why
5 they were recalling the Digitek.

6 Q What do you think has been done wrong to you?

7 A In what way?

8 Q What do you claim was done wrong to you from
9 your use of Digitek?

10 A When I had -- I was -- I had to take a lot of
11 tests and things and paid out a lot of expenses.

12 Q Other than having to undergo tests and paying
13 for those tests, how else do you feel you were wronged
14 by your use of Digitek?

15 A And one thing, I feel that they didn't let us
16 know. Just they let us know right at the recall, and it
17 looked like it should have been out before then. They
18 let you take that Digitek up until the recall and then
19 it damaged.

20 Q What do you hope to receive as a result of this
21 lawsuit?

22 A I hope to receive the expenses and stuff and --

23 Q What expenses do you seek to have reimbursed?

24 MR. MALKINSON: I'm just going to object to the
25 extent that calls for something that her attorneys would

1 be -- that she hired lawyers for, but I'm going to allow
2 her to give her own answer.

3 THE WITNESS: What --

4 MR. MALKINSON: What expenses?

5 THE WITNESS: Medical expenses. I went through all
6 those tests, and that was kind of painful.

7 MR. SIMON: Q Other than medical expenses and
8 tests, what other expenses do you seek to recover in
9 this lawsuit?

10 A The episodes I had.

11 Q What episodes did you experience?

12 A One time -- Excuse me. One time I was going to
13 pick up my medicine. That's when they changed the
14 medication. I got to the drugstore, I couldn't get out
15 of my car because I was nervous and weak and couldn't
16 move, and I had to sit there for a little while before I
17 could get out.

18 Then I was weak and a headache. And then I
19 went and got my medicine. I went by another -- I had to
20 sit there before I can drive because I was afraid
21 something may happen.

22 Then when I felt a little better, I got my
23 composure a little bit and went to another store. Then
24 it was the same thing. So that store had some baskets
25 out there and I decided to go get a basket and lean up

1 on it and go in the store.

2 I was weak and dizzy, and I saw a policeman way
3 over there, and I start to blow my horn for him to come,
4 but I had some groceries in the car and I didn't want to
5 leave it because I knew he was going to call the
6 paramedic. So I tried to make it home.

7 When I got home, I couldn't take anything out
8 of the car. My husband is kind of sick, and he had come
9 taken everything out of the car. I just went right to
10 bed, and I slept the whole evening.

11 Q When did this episode occur?

12 A It occur before -- a little before they recalled
13 the Digitek.

14 Q When you say a little bit before they recalled
15 the Digitek, do you remember what month this episode
16 occurred?

17 A Sometime in March. In March.

18 Q March of 2008?

19 A Yes.

20 Q Were there any other episodes that you
21 experienced?

22 A Well, one other place I went to and I was like
23 forgetting. I was forgetting -- I have to think, you
24 know, what I wanted to say because I was forgetting.

25 Q And when did you experience this episode of

1 dizziness before you went into the pharmacy, did you
2 tell the pharmacist about it?

3 A No, I didn't.

4 Q When you got home, what did you tell your
5 husband?

6 A I told him I was weak and kind of blurry and
7 just felt bad, and I couldn't do anything but just go
8 and get in bed.

9 Q Did anyone suggest that you contact a doctor or
10 go to the hospital?

11 A No.

12 Q Did you ever consider contacting your doctor or
13 going to the hospital?

14 A No, I thought I'd feel better after I lie down.

15 Q And how did you feel after you laid down and
16 rested?

17 A A little bit better than I did before I lied
18 down.

19 Q Has anyone ever told you that you have medical
20 problems as a result of using Digitek?

21 A No, no more than the same medical problem I go
22 to the doctor for.

23 Q So you continue to see your doctor for the same
24 medical problems you saw him before you used Digitek and
25 after you used Digitek?

1 A Because I had taken all of it up.

2 Q So there's only one-half of a tablet of the new
3 tablets?

4 A Yes.

5 Q And the rest of the tablets in there are all the
6 old tablets you had?

7 A Right.

8 Q Remember to wait until I complete my question
9 before you answer. You're doing fine.

10 When you were taking the Digitek tablets, did
11 they all look the same to you?

12 A I can't recall because I didn't notice where
13 they make them at. I didn't notice them. I just
14 thought they was all good.

15 Q After you were notified of the recall did you
16 examine the tablets?

17 A I kind of looked at them, but I didn't take
18 any more.

19 Q And did they all look the same to you when you
20 looked at them?

21 A I didn't notice that either.

22 Q I'm sorry?

23 A I couldn't tell.

24 Q You didn't notice any difference?

25 A I couldn't tell.

1 A Well, I try not to eat too much greasy food or
2 anything like that.

3 Q Was it during that hospitalization for your
4 gastro problem that you first learned you had atrial
5 fibrillation?

6 A He didn't tell me fibrillation. He just said
7 palpitation. I just got the name of the fibrillation
8 after the digoxin started.

9 Q So was it during this hospitalization for your
10 gastro problem that you found out you had palpitations?

11 A Yes, then.

12 Q And what did your doctors tell you about your
13 heart palpitations?

14 A He just told me I had heart palpitations. He
15 put me on that digoxin medication.

16 Q You didn't find out that you had atrial
17 fibrillation until the time of the Digitek recall?

18 A Like in March, February or March. That's when
19 he told me.

20 Q How did you find out that you had atrial
21 fibrillation in February or March?

22 A My doctor told me.

23 Q And what did -- Was it Dr. Patel who told you
24 that?

25 A Yes.

1 recall?

2 MR. MALKINSON: I'm just going to interject one
3 objection on the collateral source rule, but you can
4 answer the question.

5 THE WITNESS: Well, I get them every month.

6 MR. SIMON: Q Okay. Well, you said you had to
7 make additional copayments because you needed to replace
8 the Digitek tablets.

9 A Yes.

10 MR. MALKINSON: He's asking how many you recall --

11 MR. SIMON: Q How many copayments you had to make.

12 A Two.

13 Q Two \$5 copayments?

14 A Yes.

15 Q How many tablets did you have left of the
16 recalled Digitek when you found out about it?

17 A When I had -- I had quite a few of them left
18 because I had started taking them every other day, so
19 that made me had extra ones that I didn't take because I
20 had started taking them every other day.

21 Q Do you know how many you had left? Did you ever
22 count them?

23 A I didn't count them.

24 Q Whatever happened to those tablets you returned
25 to the pharmacy?

1 Q Did you discuss your lawsuit with Dr. Patel?

2 A No, I didn't.

3 Q Does Dr. Patel know that you filed a lawsuit?

4 MR. MALKINSON: Objection, lack of foundation as to
5 what he knows, calls for speculation.

6 MR. SIMON: Q Do you know if Dr. Patel knows that
7 you filed a lawsuit?

8 A I didn't tell him.

9 Q Has Dr. Patel ever told you that taking the
10 Digitek harmed you?

11 A He didn't, no.

12 Q Have you ever talked to anyone at Actavis or
13 Mylan, the companies who are named in this lawsuit?

14 A Someone called me one day.

15 Q Tell me --

16 A Right after that.

17 Q Tell me about that.

18 A They just asked me, you know, how was I feeling,
19 did I take it.

20 Q What did you tell them?

21 A Yes, I took it.

22 Q Did you tell them anything else?

23 A No.

24 Q When were you contacted?

25 A I can't recall. In specific, I can't recall.

1 take any sort of bran or fiber supplements?

2 A No.

3 Q Do you take any vitamins?

4 A No.

5 Q You indicated earlier that in February or March
6 you started taking Digitek every other day at Dr.
7 Patel's suggestion.

8 A Yes.

9 Q Did your symptoms improve after you started
10 doing that?

11 A Just a little bit better. Just a little bit.

12 Q What symptoms did you continue to experience
13 after taking Digitek every other day?

14 A Mostly the same ones until I got off of the
15 digoxin, and then I started feeling better.

16 Q When you say mostly the same ones, what
17 symptoms? Specifically what symptoms did you continue
18 to experience?

19 A The weakness and dizziness, tired.

20 Q So from February or March when you started
21 taking Digitek every other day up until the time you
22 stopped taking Digitek, which was in late April or May
23 of 2008, you continued to experience those symptoms?

24 A It got better and better. I got better and
25 better.

1 A Repeat.

2 Q Why do you think that the Digitek tablets
3 contained digoxin in excess of the labeled doses?

4 MR. MALKINSON: I'd just object to the extent it's
5 asked and answered. It's what the pharmacy told her.

6 MR. SIMON: Q Is the basis for your belief that
7 the Digitek tablets contained excess digoxin the recall?

8 MR. MALKINSON: Do you understand his question?

9 THE WITNESS: No, I don't understand.

10 MR. SIMON: Q Why do you believe the Digitek
11 tablets contained too much digoxin?

12 A The way I felt, it must have because I wasn't
13 feeling active.

14 Q At any point in time during your treatment,
15 doctor visits, did anyone use the term digoxin toxicity?

16 A No.

17 Q Did anyone ever use the term digoxin overdose?

18 A Overdose?

19 MR. MALKINSON: If you recall.

20 THE WITNESS: The only thing is, the pharmacy, they
21 might have some larger ones in there.

22 MR. SIMON: Q Do you claim that you have or may
23 develop any mental, psychological or emotional condition
24 as a result of using Digitek?

25 A Since then my remembrance is not as good. I

1 forget.

2 Q So you claim that your use of Digitek has
3 resulted in a loss of memory?

4 A During that time I was taking it like that,
5 that's when I was like having to think to remember what
6 I was going to say.

7 Q What about now? Do you contend that your
8 Digitek use continues to cause you a loss of memory?

9 A Not as bad.

10 Q When you say not as bad, do you --

11 A There was when I was taking it.

12 Q Do you believe taking the Digitek continues to
13 cause you memory loss?

14 A Well, it seemed like I never fully recovered
15 when I was taking that Digitek, that I was getting
16 nervous and I was getting like I couldn't remember when
17 I was having the nausea.

18 MR. MALKINSON: He's asking about today. Do you
19 believe you have problems with regard to your memory
20 today because of Digitek?

21 THE WITNESS: Yes.

22 MR. SIMON: Q You indicated that you have not
23 fully recovered from your use of Digitek. I want to
24 know what symptoms you continue to experience that you
25 believe were caused by Digitek.

1 A I'm still like slower. The new medicine helped
2 me a lot better, but I'm still like kind of tired for
3 when I was taking the Digitek.

4 Q So you believe that you continue to be tired
5 because of your use of Digitek?

6 A That's when I was really, really tired. I'm
7 better now since I've been taking the new medication,
8 but during that time I was tired.

9 Q What about now? Are you still tired because you
10 use Digitek?

11 A Not as much as I was.

12 Q But some?

13 A A little bit.

14 Q Other than tiredness, do you attribute any other
15 conditions or symptoms you currently have to your use of
16 Digitek?

17 MR. MALKINSON: I'll object to the extent it calls
18 for a medical opinion, but you can answer.

19 THE WITNESS: I don't do as much as I used to when I
20 was taking that Digitek and I got all nauseated and
21 tired and dizziness.

22 MR. SIMON: Q And do you contend you don't do as
23 much now because of your use of Digitek?

24 A I'm better now when I got off the Digitek.

25 MR. MALKINSON: He's asking you whether it affects

1 you today in 2009 that way, whether you're doing less in
2 2009 because of the Digitek you stopped taking in 2008.

3 THE WITNESS: I do less than I was.

4 MR. SIMON: Q Do you do less because you used
5 Digitek?

6 A I do less since 2008, since 2008. A little bit
7 less since I was taking Digitek.

8 Q And you believe you do less now because you used
9 Digitek in 2008?

10 A Yes, I did a lot -- The Digitek did a lot to me
11 when I was taking it.

12 Q Have any of your doctors told you that the
13 symptoms you continue to experience were caused by your
14 use of Digitek?

15 A We didn't discuss it.

16 Q Are you currently receiving treatment or taking
17 any medication for the conditions you believe were
18 caused by your use of Digitek?

19 A No.

20 Q When would have been the last time you had any
21 treatment for or because of your use of Digitek?

22 A I didn't have any more treatments since the
23 doctor was trying to find out what was causing -- that
24 Digitek was causing my problems.

25 Q So when would have been the last time that you

1 MR. SIMON: Q Are you seeking a refund for the
2 purchase price of your Digitek?

3 A Yes, for all the expenses, the other people's
4 and me, all expenses that we was out of while they was
5 recalling the Digitek.

6 Q What expenses are you out of because of the
7 Digitek recall?

8 MR. MALKINSON: Again, I'll object under the
9 collateral source rule. You can answer.

10 THE WITNESS: I had to pay --

11 MR. MALKINSON: I'm also objecting to the extent it
12 calls for something that would be what she's hired
13 lawyers for. Go ahead.

14 MR. SIMON: You can answer.

15 THE WITNESS: I'll let my lawyer answer that.

16 MR. MALKINSON: No, no, I'm letting you answer what
17 expenses --

18 MR. SIMON: He'll tell you not to answer if he
19 doesn't want you to answer.

20 MR. MALKINSON: Yes, I will. I'll be very vocal
21 about it.

22 MR. SIMON: Q I want to find out what expenses you
23 paid out that you're attributing or that -- what
24 expenses you paid out because of your use of Digitek.

25 MR. MALKINSON: He's not asking you for dollars and

1 cents. He's asking you what things -- what money paid
2 for what.

3 THE WITNESS: For the CAT scan, medicine and
4 electrocardiogram.

5 MR. MALKINSON: Blood tests, your digoxin level
6 test.

7 THE WITNESS: My digoxin level test. When I paid
8 the doctor to go up to see him, every time I went to see
9 him.

10 MR. SIMON: Q Anything else?

11 A All the copayments I did, transfers of digoxin,
12 new medicine.

13 Q Do you know how many additional visits you had
14 with Dr. Patel because of your use of Digitek?

15 A He was having me come like every two weeks and
16 things like that.

17 Q How long of a period were you going to see Dr.
18 Patel every two weeks?

19 A March, April.

20 Q So it's your recollection that you were seeing
21 Dr. Patel every two weeks through March and April of
22 2008?

23 A Yes.

24 Q What about in May?

25 A I had to go in May. I can't recollect how many

1 responsibilities to be as a class representative?

2 A To help myself and other people.

3 Q Anything else?

4 A And find out why the company didn't notify us
5 about the Digitek. Only the pharmacy notified us. The
6 company didn't notify us to not take that Digitek before
7 then.

8 Q Who do you believe you represent in this
9 lawsuit?

10 A All of the peoples all over the world. I don't
11 know how many, but all of the peoples.

12 MR. MALKINSON: Which people?

13 THE WITNESS: The people that has the class action.

14 MR. SIMON: Q Do you believe that you represent
15 everyone who ever bought Digitek in the world?

16 MR. MALKINSON: Or the United States.

17 THE WITNESS: The United States, yes.

18 MR. SIMON: Q Or do you believe that you represent
19 just those persons who bought Digitek in Illinois?

20 A United States.

21 Q Do you believe you represent people who believe
22 Digitek caused them physical harm or injury?

23 A Yes.

24 Q Do you believe that you represent people who
25 believe Digitek caused them pain and suffering?

1 A Yes.

2 Q Do you recognize that there may be some people
3 who don't believe they were physically or mentally
4 injured?

5 A I can't say about those. Only the peoples that
6 are in the class action.

7 Q Are you seeking to recover damages for your
8 personal injury?

9 A Yes, mine's and other people's too.

10 MR. MALKINSON: You'll recall we amended the
11 complaint. We're not recovering for everyone's personal
12 injury. We're recovering for yours. We're recovering
13 for financial losses for everyone else. You understand
14 that?

15 THE WITNESS: Yes.

16 MR. SIMON: Q So are you seeking to recover
17 damages for your personal injury?

18 A Yes.

19 Q Are you seeking to recover damages for other
20 people's personal injury?

21 A Yes.

22 MR. MALKINSON: Again, we've already -- I just
23 finished. We just discussed this. Listen to me when
24 I'm talking to you. Do you understand that yesterday we
25 amended our complaint? We are not seeking --

1 MR. SIMON: You can answer.

2 MR. MALKINSON: Lack of foundation. If you know.
3 Do you understand the question?

4 THE WITNESS: Not really.

5 MR. MALKINSON: If you don't understand a question
6 or if you don't know the answer, just say so.

7 MR. SIMON: Counselor, no more speaking objections.

8 MR. MALKINSON: That's not an objection. That's
9 guidance to my client.

10 MR. SIMON: Can you read back the question, please?

11 (Record read.)

12 MR. MALKINSON: Same objection at this point.

13 MR. SIMON: Q You can answer.

14 A For my claim?

15 Q For others' claims. We're talking about others'
16 claims now.

17 Do you understand that it's possible by
18 limiting others' claims to a refund claim that you may
19 prevent them from filing a separate suit about their
20 claimed physical injuries?

21 MR. MALKINSON: I'm objecting --

22 THE WITNESS: No.

23 MR. MALKINSON: Let me say my objection. I'm
24 objecting because it calls for a legal conclusion. It
25 states facts not in evidence and inaccurately states the

1 law. It goes beyond --

2 MR. SIMON: You can answer the question.

3 MR. MALKINSON: If you know, say so. If you don't
4 know, say you don't know.

5 THE WITNESS: I don't know.

6 MR. SIMON: Q Do you think that would be fair,
7 that they would be prevented from bringing claims for
8 their physical injuries?

9 A No.

10 Q That would not be fair?

11 A No.

12 Q How did you get selected as a class
13 representative?

14 MR. MALKINSON: I'm objecting. It assumes facts not
15 in evidence. It assumes some selection process which
16 never existed.

17 MR. SIMON: Counselor, that's enough of the speaking
18 objections. Any more and we're going to have to get the
19 Court on the phone.

20 MR. MALKINSON: Are you done?

21 MR. SIMON: Q You can answer the question. How
22 did you --

23 A Could you repeat?

24 Q How did you get selected as a class
25 representative?

1 other day?

2 A In February of 2008.

3 Q In February of 2008 you started taking digoxin
4 every other day?

5 A Yes.

6 Q And Dr. Patel told you to do that?

7 A Yes.

8 Q Did he explain to you or say why he wanted you
9 to take digoxin every other day in February 2008?

10 A That's when he was testing my heart and saw it
11 kind of acting up. He said maybe you should take the
12 pills every other day.

13 Q And then were you taking digoxin every other day
14 all the way up until the recall?

15 A Yes.

16 Q So from February 2008 until --

17 A Yes.

18 Q -- April --

19 A 27th.

20 Q -- 27th you were taking digoxin every other day?

21 A Yes.

22 Q You had said earlier today that Dr. Patel had
23 never told you that Digitek had harmed you. Have you
24 ever told Dr. Patel that you think Digitek has harmed
25 you?

1 A Well, he told me Digitek is supposed to have
2 been the best --

3 MR. MALKINSON: Just answer her question. Have you
4 ever told him or asked -- Her question was whether you
5 ever told him that you thought Digitek harmed you.

6 THE WITNESS: No.

7 MS. WEST: Q You started to say something about
8 what Dr. Patel had told you about Digitek. What was it
9 that you were going to say?

10 A Oh, that was when I told him that they recalled
11 the Digitek, and he said that was the best -- supposed
12 to have been the best heart pills.

13 Q Did he say anything to you other than that about
14 Digitek --

15 A No.

16 Q -- after the recall?

17 He didn't say anything further other than --

18 A He just changed my medication.

19 Q Okay. Have you ever used a product that was
20 distributed by UDL laboratories to your knowledge that
21 you can recall?

22 A I can't recall.

23 Q You can't recall whether you have?

24 A No.

25 Q Have you ever -- Are you familiar with what a

1 blister pack is?

2 A No.

3 Q Have you ever had pills -- You've had pills in a
4 bottle before, right?

5 A Yes.

6 Q Have you ever had pills where they would be in a
7 flat container with like a foil surface and you pop the
8 pills out of the package?

9 A No.

10 Q Have you ever seen that before?

11 A I never had any.

12 Q You've never had pills in that type of
13 packaging?

14 A All have been in bottles.

15 Q Always in bottles?

16 A Yes.

17 Q So you've never taken Digitek other than in a
18 bottle?

19 A Just in a bottle.

20 Q Have you been contacted by anyone from UDL
21 Laboratories?

22 A No.

23 Q Have you ever talked to any doctor or healthcare
24 professional about your memory loss problems?

25 A No, no. No.

1 Q Okay. When you went for that first visit after
2 you became aware of the recall, did it appear to you
3 that Dr. Patel was aware of the Digitek recall prior to
4 your visit?

5 A No, I told him.

6 Q And, from your reaction, you felt he had been
7 unaware of it?

8 A Yes.

9 MR. SIMON: Objection.

10 MR. MALKINSON: Q Why did you believe he was
11 unaware of it? What did he say or do?

12 A He had his nurse to call the pharmacy to find
13 out. She said yes.

14 Q If your medical records show that you saw Dr.
15 Patel -- Well, strike that.

16 You mentioned several tests that you had taken
17 shortly after the recall was made known to you, a
18 digoxin blood level, EKG, CAT scan, stress level, et
19 cetera, right?

20 A Yes.

21 Q Is it your contention that those were -- that
22 you incurred expense from those because of the recall
23 and the need to evaluate you, yourself, to see if you
24 had suffered from any ill-impact from a high dose of
25 Digitek?

1 A Yes.

2 Q Did your doctor -- Strike that.

3 Did Dr. Patel ever give you any written
4 material, information, about Digitek at any time that
5 you've been under his care?

6 A No.

7 Q You mentioned a grandmother that you believed
8 had heart problems. Is that just based on what you
9 heard from other people?

10 A Yes.

11 Q You've never spoken with your grandmother's
12 doctors or had any first-hand knowledge of --

13 A No.

14 Q -- whether or not she had heart problems?

15 A No.

16 Q After you found out about the Digitek recall you
17 had some initial digoxin blood level tests done,
18 correct?

19 A Yes.

20 Q And one of those tests was one of the ones that
21 Dr. Patel told you was high?

22 A Yes.

23 Q I guess I'll preface my next question by saying,
24 without waiving my objection on the collateral source
25 rule, but to the extent we got limited by some court

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)
3

4 The within and foregoing deposition of the
5 aforementioned witness was taken before NADINE J. WATTS,
6 CSR, RPR and Notary Public, at the place, date and time
7 aforementioned.

8 There were present during the taking of the
9 deposition the previously named counsel.

10 The said witness was first duly sworn and was
11 then examined upon oral interrogatories; the questions
12 and answers were taken down in shorthand by the
13 undersigned, acting as stenographer and Notary Public;
14 and the within and foregoing is a true, accurate and
15 complete record of all of the questions asked of and
16 answers made by the forementioned witness, at the time
17 and place hereinabove referred to.

18 The signature of the witness was not waived,
19 and the deposition was submitted, pursuant to Rules
20 30(e) of the Rules of Civil Procedure for the United
21 States District Courts, to the deponent per copy of the
22 attached letter.

23 The undersigned is not interested in the
24 within case, nor of kin or counsel to any of the
25 parties.

1 Witness my official signature and seal as
2 Notary Public in and for Cook County, Illinois on this
3 _____ day of _____, A.D. 2009.

4
5 _____
6 NADINE J. WATTS, CSR, RPR
7 License No. 084-002736
8 Notary Public
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: DIGITEK PRODUCT LIABILITY) MDL NO. 1968
LITIGATION)

THIS DOCUMENT RELATES ONLY TO:)

Kevin Clark and Willie Mae)
Wilburn, Individually and on)
behalf of all others similarly)
situated,)
Plaintiffs,)

vs.)

ACTAVIS GROUP; hf, et al.,)
Defendants.)

MDL NO. 2:08-1017

I hereby certify that I have read the
foregoing transcript of my deposition given at the time
and place aforesaid, consisting of Pages 1 to 144,
inclusive, and I do again subscribe and make oath that
the same is a true, correct, and complete transcript of
my deposition so given as aforesaid, and includes
changes, if any, so made by me.

SUBSCRIBED AND SWORN TO before me this

_____ day of _____, 2009.

Notary Public

Willie Mae Wilburn

Page 145

1 CASE: Willie Mae Wilburn vs. Actavis, et al.

2 DATE TAKEN: August 6, 2009

3 DEPONENT: [REDACTED]

4 PAGE LINE ERRATA SHEET

5 _____ CHANGE: _____

6 _____ REASON: _____

7 _____ CHANGE: _____

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18 _____ REASON: _____

19 _____ CHANGE: _____

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21 _____ CHANGE: _____

22 _____ REASON: _____

23

24 (SIGNED) _____

25 Reporter: Nadine J. Watts, CSR, RPR